

DEC 18 2006

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

*Donna E. Stewart*  
**DOCKET NO. 1629**

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

DEC 18 2006

FILED  
CLERK'S OFFICE

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE NEURONTIN MARKETING, SALES PRACTICES AND PRODUCTS  
LIABILITY LITIGATION**

*Blue Cross and Blue Shield of Alabama, et al. v. Pfizer Inc., et al.*, M.D. Alabama, C.A. No.  
2:06-524

**BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN,  
J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL,  
DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE  
PANEL**

**TRANSFER ORDER**

*2:06 CV 524*

Before the Panel is a motion brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in one Middle District of Alabama action (*Blue Cross*). Movants seek to vacate the portion of a Panel order conditionally transferring *Blue Cross* to the District of Massachusetts for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Patti B. Saris. Defendant Pfizer Inc. (Pfizer) and one of its affiliates supports transfer of the action.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that *Blue Cross* involves common questions of fact with actions in this litigation previously transferred to the District of Massachusetts, and that transfer of the action to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel is persuaded that transfer of *Blue Cross* is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the District of Massachusetts was a proper Section 1407 forum for actions sharing factual questions arising out of allegations that common defendants had engaged in the illegal promotion and sale of the drug Neurontin for "off-label" use. *See In re Neurontin Marketing and Sales Practices Litigation*, 342 F.Supp.2d 1350 (J.P.M.L. 2004). Transfer under Section 1407 will thus permit *Blue Cross*, whose plaintiffs seek to recover actual and punitive damages to compensate them for monies that they allegedly paid as a result of an off-label Neurontin marketing scheme, to proceed before a transferee judge who is already familiar with the complex questions likely to arise in the action.

Plaintiffs premise part of their opposition to transfer on the argument that federal jurisdiction is lacking in *Blue Cross*. They urge the Panel not to order transfer before their motion to remand to state court is resolved by the Alabama federal court. Such motions, if not resolved in transferor courts by the time of Section 1407 transfer, can be presented to and decided by the transferee judge.

- 2 -

*See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the District of Massachusetts and, with the consent of that court, assigned to the Honorable Patti B. Saris for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



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Wm. Terrell Hodges  
Chairman

**INVOLVED COUNSEL LIST**  
**DOCKET NO. 1629**  
**IN RE NEURONTIN MARKETING, SALES PRACTICES AND PRODUCTS**  
**LIABILITY LITIGATION**

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I hereby certify on 12-28-06 that the  
foregoing document is true and correct copy of the  
☐ electronic docket in the captioned case  
☐ electronically filed original filed on  
☒ original filed in my office on 12-28-06

Sarah A. Thornton  
Clerk, U.S. District Court  
District of Massachusetts

By: *Shirley Jones*  
Deputy Clerk



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
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BOSTON, MASSACHUSETTS 02210

Sarah Allison Thornton  
CLERK OF COURT

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December 22, 2006

Ms. Debra P. Hackett, Clerk  
United States District Court  
Post Office Box 711  
Montgomery, AL 36101

DEBRA P. HACKETT  
U.S. DISTRICT COURT  
MONTGOMERY, ALABAMA

IN RE: MDL DOCKET No. 1629 In Re: Neurontin Marketing, Sales Practices and Products  
Liability Litigation

USDC - Massachusetts Lead Case No. 1:04-cv-10981-PBS  
Your Case Civil Action No. 2:06-00524-MEF-WC  
District of MA No.1:06-cv-12295-PBS


Dear Clerk:

Enclosed is a certified copy of the Order of the Judicial Panel on Multi-District Litigation, transferring the cases on the attached listing to the U.S. District Court for the District of Massachusetts for coordinated or consolidated pretrial proceedings pursuant to Title 28 United States Code Section 1407. These cases have been assigned to the Honorable Patti B. Saris.

In accordance with the Rules concerning Multi-District Litigation, please email the electronic case file to [Sherry\\_Jones@mad.uscourts.gov](mailto:Sherry_Jones@mad.uscourts.gov) or send a disc containing all documents filed to **Clerk's Office, 595 Main St., Suite 502, Worcester, MA 01608, Attn: Sherry Jones**. In addition, please send a certified copy of the docket entries and a copy of the transfer order for the case now pending in your district as indicated above. Also include a copy of this letter when transmitting your records.

Your prompt attention to this matter is greatly appreciated. If you should have any questions, please do not hesitate to contact the undersigned at 508-929-9901, Robert Alba, Courtroom Clerk for Judge Saris at 617-748-9175 or Christine Patch, Docket Clerk for Judge Saris, at 617-748-9178.

Sincerely,

  
Sherry Jones  
Deputy Clerk

Information Copy to: Jeffery N. Luthi, Clerk of the Panel  
Counsel of Record  
Robert Alba  
Christine Patch